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9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 SOUTHERN DIVISION

13 UNITED STATES OF AMERICA,
14 Plaintiff,
15 v.

16 ANDRE MORROW LACKNER,
17 Defendant.

No. CR 22-00603-DSF (AS)

GOVERNMENT'S OPPOSITION TO
DEFENDANT'S APPLICATION FOR
PRETRIAL RELEASE

Hearing Date: May 4, 2023
Hearing Time: 1:00 p.m.

Location: Courtroom of the
Hon. Alka Sagar

20 Plaintiff United States of America, by and through its counsel
21 of record, the United States Attorney for the Central District of
22 California and undersigned counsel, hereby files this Opposition to
23 Defendant's Application for Pretrial Release. This Opposition is
24 based on the attached Memorandum of Points and Authorities, the files
25

26 \\
27 \\
28

1 and records in this case, and any additional evidence and argument
2 that the Court may receive at the hearing.

3 Dated: May 3, 2023

Respectfully submitted,

4 E. MARTIN ESTRADA
United States Attorney

5 ANNAMARTINE M. SALICK
6 Assistant United States Attorney
Chief, National Security Division

7 /s/
8 AMANDA B. ELBOGEN
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1 of the community, and poses a real risk of nonappearance, this Court
2 should deny the defendant's motion for pretrial release.

3 **II. LEGAL STANDARD**

4 The Bail Reform Act of 1984 (the "Act") permits pretrial
5 detention of a defendant without bail where "no condition or
6 combination of conditions will reasonably assure the appearance of
7 the person as required and the safety of any other person and the
8 community." 18 U.S.C. § 3142(e). Detention is appropriate where a
9 defendant is either a danger to the community or a flight risk; it is
10 not necessary to prove both. United States v. Motamedi, 767 F.2d
11 1403, 1406 (9th Cir. 1985). A finding that a defendant is a danger
12 to the community must be supported by clear and convincing evidence.
13 18 U.S.C. § 3142(f). A finding that a defendant is a flight risk
14 need only be supported by a preponderance of the evidence. Motamedi,
15 767 F.2d at 1406. As in a preliminary hearing, the government may
16 proceed in a detention hearing by proffer or hearsay. United States
17 v. Winsor, 785 F.2d 755, 756 (9th Cir. 1986)7; United States v.
18 Cardenas, 784 F.2d 937, 938 (9th Cir. 1986).

19 Once a detention determination has been made, a motion for bail
20 review can only be made "if the judicial officer finds that
21 information exists that was not known to the movant at the time of
22 the hearing," and that information "has a material bearing on the
23 issue whether there are conditions of release that will reasonably
24 assure the appearance of the person as required and the safety of any
25 other person and the community." 18 U.S.C. § 3142(f). Courts have
26 interpreted this provision strictly, holding that hearings should not
27 be reopened if the evidence was available at the time of the initial
28 hearing. See United States v. Ward, 63 F. Supp. 2d 1203, 1207 (C.D.

1 Cal. 1999); see also United States v. Dillon, 938 F.2d 1412, 1415
2 (1st Cir. 1991) (per curiam) (affirming district court's refusal to
3 reopen hearing where defendant's evidence consisted of affidavits and
4 letters from people who knew him attesting to his likelihood of
5 appearing and non-dangerousness; "this information was available to
6 appellant at the time of the [original] hearing"); United States v.
7 Hare, 873 F.2d 796, 799 (5th Cir. 1989) (affirming refusal to reopen
8 hearing because "testimony of [defendant]'s family and friends is not
9 new evidence").

10 **III. FACTS**

11 **A. Defendant's Criminal History**

12 1. Defendant's Prior Arrest and Conviction for Making 13 Terroristic Threats

14 On May 16, 2017, Victim T.T., a Venice High School teacher,
15 received a threatening phone call on her home from defendant, a
16 former student of hers. Victim T.T. had not heard from defendant
17 since he graduated from high school in 2006. In a police report
18 filed with the Los Angeles County Sheriff's Department ("LASD"),
19 Victim T.T. told LASD deputies that defendant said the following:
20 "Hello you fucking bitch. Why did you give me a DUU?"

21 Victim T.T. responded by asking who he was and recalls that
22 defendant responded, "don't worry who I am, I'll kill you and your
23 family, you fucking bitch and I know where your daughter lives. I
24 can't tell you who I am because I'm fucking threatening you, you
25 fucking bitch. I woke up at five in the morning I did all the
26 fundraising and paid for things with my own money." Defendant added
27
28

1 that he was bipolar and had previously been incarcerated.¹ He told
2 Victim T.T. that he would be calling again soon. Victim T.T.
3 identified the caller as defendant because her caller ID showed the
4 name "ANDRE LACKNER" on her phone (which agents later verified
5 through the toll records), and she also recognized his voice.
6 Further investigation by LASD identified the phone number used to
7 make the threatening phone call as defendant's phone number.

8 Four days later, on May 20, 2017, Victim T.T. was walking in the
9 Rueben Ingold Park located at 4400 W. Mount Vernon Ave, Los Angeles,
10 CA when she noticed defendant walking in the park. Defendant walked
11 out of view and Victim T.T. called the police. Deputies responded
12 and after taking a report from Victim T.T., went to defendant's
13 registered home address at the time, 7070 Flight Ave, Unit #203, Los
14 Angeles, CA. Deputies encountered defendant at the residence and
15 arrested him for the misdemeanor offense under California Penal Code
16 § 422 (Criminal Threats). Defendant was later convicted and
17 sentenced to 2 days' imprisonment and 36 months' probation.

18 **B. Defendant's Public Threats to Kill Others**

19 1. "I want to kill as many people as I can"

20 On May 23, 2017, LASD was provided information regarding LACKNER
21 from a friend ("Witness #1") of Victim T.T., who heard about the case
22 and found LACKNER'S Instagram page online. Witness #1 provided the
23 information to LASD because he/she saw a video in which he/she
24 remembered LACKNER saying, "I want to kill as many people as I can
25 and kill myself but I can't do that until my mom dies."

26
27 ¹ On May 20, 2017, defendant was arrested of driving while under
28 the influence, and was sentenced to 13 days in jail and 36 months'
probation. The conviction was set aside and dismissed per California
Penal Code § 1203.4.

1 A complaint was made to Instagram and the video was removed from
2 the web page. The reported Instagram page was under the username
3 "Andretheastronaut".

4 2. 2017 Threat to Shoot Up a School

5 On October 30, 2017, the FBI received an online tip regarding a
6 school shooting threat in Los Angeles, CA. An individual had viewed
7 a song posted by user "Andre the Astronaut" with the title, "a
8 temporary upload because I am already in legal trouble" on the
9 website Soundcloud. In the song, the user "Andre the Astronaut"
10 threatened to "shoot up a school" and stated he was "off his meds."
11 The video has since been removed from Soundcloud.

12 Defendant was later linked to this threat, when, as described
13 below, in 2022, the same username of "Andre the Astronaut" made a
14 threat using similar language. Law enforcement reviewed the
15 Soundcloud homepage for user "Andre the Astronaut" and saw that it
16 included a profile picture that matched the description of
17 defendant's DMV photo.

18 3. 2020 Mass Killing Threat at Coachella Festival

19 On May 11, 2020, the FBI received a tip regarding user
20 "Its_A_Nice_Day" on reddit.com ("Reddit") who posted about committing
21 mass killings at the Coachella festival in Indio, CA. The posts were
22 on a forum that was created for the upcoming Coachella festival. The
23 post included the following message: "I always wanted to have a good
24 coachella trip but I never could. Sometimes I get fantasies of doing
25 a masskilling here like driving a truck through the audience,
26 throwing grenades in the crowd, spraying a machine gun, going on
27 stabbing spree, etc because I could never make it happen since im a
28

1 loser so it would be a good way to get revenge on the world but I
2 know that they're just thoughts and I would never do it."

3 According to subscriber records provided by Reddit, the email
4 address associated with the user "Its A Nice Day" is
5 drestackems@gmail.com. According to Google records, the recovery
6 email address for the drestackems@gmail.com address is
7 andrelackner@gmail.com, and the phone number associated with the
8 account is (310) 989-2379 ("the 2379 Number"). According to public
9 databases, the 2379 Number is associated with defendant. On August
10 12, 2020, FBI Special Agents called the 2379 Number and defendant
11 answered and identified himself.

12 4. 2020 Mass Shooting Threat on a Cruise Ship

13 On May 28, 2022, the FBI again received tips regarding mass
14 shooting threats that defendant made on Twitter and Discord.

15 The Twitter posts by user @DreStaxxxems, included the following
16 statements:

17 a. "i am inspired by recent events to do a mass
18 shooting on a cruise ship, can i buy guns in texas
19 without being a resident? i know a lot of ships take
off from the port there;" and

20 b. "i want to do a mass shooting on a cruise ship, i
21 was planning to buy the guns in texas and and shoot my
22 way onto one of the ships. I've been studying layouts
23 and blueprints to find good trap areas. Can NRA make
sure they can't restrict me from getting guns in
texas?"

24 Law enforcement obtained screenshots of these posts. According to
25 Twitter records, the phone number associated with the @DreStaxxxems
26 account is the 2379 Number.

1 5. Mass Shooting Threats on Discord

2 The Discord posts by user "Earth God", with associated Instagram
3 account "andretheastronaut", included the following statements:

4 a. "I think about socializing and remember the long list
5 of ignored texts on my phone. I make efforts to meet people but they
6 all just ignore me. I spent the entire 2020 pandemic alone and I will
7 never recover from the damage that it did to me. I had big dreams but
8 they were destroyed. I had many goals but will always fail. No
9 friends, no family. I feel rejected from society and I want to
10 destroy it. I want to do a mass shooting. Feeling very inspired by
11 recent events but most of these shooter are cowards that did not even
12 try. My life is hell and misery, just waiting to die alone. I am
13 hated by the world for being born an ugly, mixed race, nigger mutt
14 only with child, only child with retard parents. I have plan
15 specification to mow down crowds. I can probably get a high body
16 count by renting a truck and plowing through a crowd than I can with
17 a gun. I also want to employ a bipod machine gun in a hall at a
18 school and when the bell rings just open fire on everything in the
19 hallway or snipe some people on a freeway from a rooftop like I'm
20 playing GTA and stab families to death in front of a Christmas tree
21 on Christmas eve. Since I won't ever be accepted by the world, why
22 should I care about who I harm? If I am not meant to be accepted by
23 society, my role is to destroy it. Don't ghost your people or they
24 might go kill someone. Thank you listening to my Tedtalk;" and

25 b. "immigrants have taken over the city. There is no soul
26 in anything anymore. They fuck over anybody that they can, they have
27 their own clubs. That's why their clubs need to get shot up too.
28 Going to throw a grenade in there and lock the door.

According to Discord records, the phone number associated with the
"Earth God" user is the 2379 Number, and the email address associated
with the user is drestackems@gmail.com, the same address previously
associated with defendant, as discussed above.

Discord records further show that the IP address associated from
which the "Earth God" Discord account connected to Discord resolved
to a Charter Communications subscriber. Charter Communications
records indicated that the subscriber was an Andre Lackner with
service address 17813 Prairie Street, Northridge, CA (the "Northridge
Residence").

1 **C. Defendant's Mental Health Hold**

2 On May 29, 2022, the FBI obtained GPS location information for
3 the 2379 Number and saw that the phone was located at the Northridge
4 Residence. On June 1, 2022, law enforcement officers found defendant
5 in a one-bedroom back structure located at the Northridge Residence.
6 LAPD officers detained defendant for a mental evaluation. Defendant
7 was transported to the Los Angeles County Olive View Hospital and was
8 placed on a 5150 mental evaluation for 72 hours, then released.

9 **D. Defendant's Harassment and Intimidation of Victim M.S.**

10 In an interview with the FBI, Victim M.S. reported that she
11 first met defendant in approximately 2006 while they both attended
12 school at Santa Monica College ("SMC"). Defendant provided Victim
13 M.S. with his phone number and email address to communicate. The
14 phone number he provided was the 2379 Number and the email address he
15 provided was andrelackner@gmail.com.

16 In 2010, Victim M.S. returned to SMC for summer classes and
17 reconnected with defendant and had an approximately two-month
18 romantic relationship with defendant. The relationship did not last,
19 but Victim M.S. remained friendly with defendant. On one occasion
20 after the breakup, defendant asked Victim M.S. to take him to the
21 emergency room because he had become angry and kicked a wall. Victim
22 M.S. drove him to the emergency room but did not stay. She began to
23 distance herself from defendant after that incident.

24 The two remained loosely in touch until about 2014 when Victim
25 M.S. and defendant reconnected. However, when they met up in person,
26 Victim M.S. did not feel comfortable with the relationship and began
27 to distance herself from defendant. After that, defendant would
28 occasionally reach out to Victim M.S. to say hello or ask for advice

1 and Victim M.S. would respond cordially. In June 2021, defendant
2 began to send concerning texts to Victim M.S. from the 2379 Number
3 about hurting himself and others, including the following three
4 messages, all sent on June 13, 2021:

- 5 a. "Sometimes I wonder if The World is trying to
6 turn me into a murderer;"
- 7 b. "So since everyone cuts me off and treats me like
8 they don't exist, maybe I am meant to give this
9 world a message no one is able to ignore;" and
- 10 c. "I feel like the only choice in life left, after
11 I lose my mom, is to either shoot myself or take
12 a lot of people with me because I'll never have
13 friends again."

14 Victim M.S. was very distressed and concerned for defendant's
15 safety and the safety of others around him. She contacted her family
16 for help and asked for advice on how to deal with the situation. She
17 decided to help defendant because he was an old friend and so she
18 called defendant and left a voicemail. She then began to respond via
19 text message and encouraged defendant to get help. She offered
20 various resources and defendant continued to tell Victim M.S. that
21 there was nothing more he could do and that he had tried everything.
22 Toward the end of the conversation, she told him she would report any
23 similarly worrying messages from him going forward. Specifically,
24 she said:

25 "I just want you to know in advance that because I care about
26 your well-being and safety if I were to receive messages like
27 those again I will report them. Not because I'm out to get you
28 but because my priority would be the safety of you and those
around you."

To that, defendant responded:

1 "Well I am being watched and have gotten the legal trouble
2 before, so being report[ed] would probably result in jail time
3 for me"

4 "But knowing you are this eager to get me thrown in the slammer,
5 just reinforces my belief that people hate me"

6 Victim M.S. responded that she was not trying to get him thrown
7 in jail, and reiterated that she cares about defendant's safety and
8 that of the people around him. They texted some more and ended the
9 conversation on good terms.

10 In August 2021, defendant asked Victim M.S. if she still lived
11 in Los Angeles and if they could hang out. Victim M.S. responded
12 that it wouldn't be appropriate given their history and that she was
13 in another relationship. Defendant responded with several messages,
14 all on August 14, 2021, which included the following:

15 d. "you're not the only Jew friend that's been fake
16 to me and cut me off Not everyone can live up
17 to Jewish standards because we don't have the same
18 cultural background or advantages in society. . . .
19 Delete my number and block me. Fuck pen pal bullshit.
20 Hit me up for the threesome if you change your mind.
21 peace [peace emoji]."

22 Victim M.S. did not respond. On October 31, 2021, defendant sent her
23 another series of text messages, this time containing overly anti-
24 Semitic comments and threats, several of which are quoted below:

25 e. "All the kikes cut me off. The Jew has no tolerance
26 towards other people that don't have the similar upbringing as
27 them."
28

1 f. "The Jews love gravitating towards black entertainers
2 so they can use them with their own selfish intentions, even if
3 it's just to be entertained. But at the end of the day these
4 parasites are only pursuing Zionist and Jewish interests;"

5 g. "The Asians are even worse, we need to start more
6 Asian hate and wipe these alien gooks off the planet too;"

7 h. "Chinks and kikes are the only true protected groups.
8 You can say whatever you want about niggers and wetbacks nobody
9 cares, but dare speak up about chang or shalom and youre
10 cancelled;"

11 i. "I'm tired of kikes putting me down all the time.
12 Maybe Hitler was on to something. You guys pretend to be
13 multicultural so you can get more power, you masquerade as
14 people of color but at the end of the day you were only
15 concerned about jews, just like the groups who claim to be
16 people of color that once they get into a favorable position
17 they immediately discriminate against other minorities;"

18 j. "I honestly wish I never went to Smc and didn't have
19 to be around the sheltered Jews that grew up with easy and safe
20 lives, I should've stayed with my own ghetto trash nigger kind.
21 The Jews and Chinks own everything in LA and I will never be
22 accepted by them, The Jews and Chinks own all the digital
23 platforms where they spread hate speech and censor black people.
24 Facey non-Jews as objects to be used. They must go."; and

25 k. "And I wish these anne franks would stop fetishizing
26 black men and seeing us as sexual objects, because at the end of
27 the day you will never marry outside of Jewish anyway."
28

1 Victim M.S. did not respond to these texts. On January 22, 2022,
2 defendant texted her again:

3 l. "I wish I could walk all these kikes to the gas
4 chamber myself."

5 m. "Why do the Hebrew think that just because money is
6 involved they have the right to be arrogant nasty and
7 disrespectful towards everyone else in the workplace? I realize
8 I don't hate white people as much as the Jews, it's the Jews
9 that have been extremely rude and down pudding [sic]. You guys
10 think you are better than everyone else and talk down to
11 everyone. You have zero tolerance towards anyone who doesn't fit
12 your cultural standards. That's why you need to be walked back
13 to the gas chamber where you belong.

14 n. "And you pretend to be anti-racist because you know
15 that you are a minority yourself, but I see through your
16 bullshit, and I want to see every single Jew exterminated from
17 this earth."

18 Victim M.S. was very distraught from the text messages that she was
19 receiving from defendant. Victim M.S.'s parents lived in Los Angeles
20 and defendant had visited Victim M.S. at her parents' address when
21 they briefly dated in 2010. Victim M.S. no longer lived with her
22 parents but was in fear for their lives and the lives of other Jewish
23 people. She was scared that defendant would attempt to find her and
24 possibly kill her because of how angry he seemed and for the fact
25 that she was Jewish. Defendant's messages about exterminating Jewish
26 people and the threats to kill many people caused significant
27 distress that has caused Victim M.S. to take time off of work.

1 Victim M.S. reported the text messages to the San Diego Police
2 Department in January 2022. Around that time, Victim M.S. also
3 blocked the 2379 Number so that she couldn't receive the text
4 messages. However, in October 2022, she discovered that the messages
5 had continued to come through on her laptop via iMessage.

6 On March 7, 2022, defendant wrote:

7 o. "Remember, Hitler was right about the kikes".

8 On March 8, 2022, defendant wrote:

9 p. "Hey Jude"

10 On March 11, 2022, defendant sent a video in which an unknown
11 subject appears to have a firearm and is about to commit suicide.

12 On August 7, 2022, defendant sent the following texts:

13 q. "Would you like to celebrate the next synagogue
14 shooting?

15 r. "I used to hate white people until I realize the
16 people who have been nasty in disrespectful To me all these
17 years weren't white, they were Jewish. I sympathize more with
18 neo-Nazis now because I understand that they were right."

19 On October 17, 2022, Victim M.S. received an email from
20 defendant via email address andrelackner@gmail.com titled, "death to
21 kikes". The email stated:

22 "The more I learn about Jews and realize most of the disrespect,
23 mistreatment, racism, and humiliation I received in my life
24 wasn't from whites, but from Jews. I mistook you as the same
25 race and realized it's the Jews who have caused most of the
26 problems in my life and in the world today. You see us black
27 people as your pets, your cattle to fetishize. That's why you
28 had no problem putting me down for being poor and growing up in

1 the ghetto Putting me down for not having a privileged Jew job.
2 Putting me down for not growing up on the westside and have all
3 society cater to me for being Jewish.

4 Hitler was right about you people. The holocaust never happened.
5 And if it did, you deserved it.

6 I will make sure I kill a Jew before I leave this earth."

7 Victim M.S. was in fear for her safety and that of her parents
8 after receiving this email, and reported the email that day to the
9 FBI via tips.fbi.gov. Specifically, she reported the following:

10 "I am extremely concerned that he will follow-through with one
11 of his threats. In his latest e-mail to me on 10/17/22 he ended
12 it saying 'I will make sure I will a Jew before I leave this
13 earth.' He knows I'm Jewish and has sent many anti-semitic
14 messages to me saying that Jews need to be taken back to the gas
15 chamber, etc. At the time we were friends I was living at home
16 with my parents and they still live in the same house along with
17 my brother and his girlfriend. I am VERY concerned that he
18 remembers where my family lives and could go there and do
19 something to them, or do something like a mass shooting in a
20 public place, etc. . . ."

21 **E. Procedural History**

22 On December 20, 2022, defendant was charged in a single-count
23 indictment alleging a violation of 18 U.S.C. §§ 2261A(2)(B),
24 2261(b)(5) (Stalking). (Dkt. 1.) The government filed a notice of
25 request for detention on the same day. (Dkt. 6.) Defendant was
26 arrested and made his initial appearance, and post-indictment
27 arraignment, on December 21, 2022. (Dkt. 8.) At that time, this
28 Court held a contested detention hearing, and the Court ordered the

1 defendant permanently detained. (Id.) Notably, prior to that
2 hearing, defendant's father told pretrial services that he believed
3 defendant was a danger to the community and should be detained.
4 Defendant's father's partner noted that due to defendant's ongoing
5 threats of violence, they had almost obtained a restraining order
6 against the defendant. They also noted that within the 24 hours
7 prior to his arrest, defendant had threatened to perpetrate a mass
8 shooting when his mother dies, a threat they said he has made many
9 times before. Defendant's father's partner stated that she feared
10 the defendant, and stated that she shared the information with
11 Pretrial Services because she believed the Court needed to know that
12 defendant may be a danger.

13 **IV. DEFENDANT HAS NO NEW INFORMATION**

14 The government notes that this Court should not consider any
15 additional information that was available to defendant at the time of
16 his initial detention hearing. Dillon, 938 F.2d at 1415 (affirming
17 district court's refusal to reopen hearing where defendant's
18 affidavits and letters - while not in existence at the time of his
19 initial detention hearing - could have been obtained by defendant
20 before his initial detention hearing). To the extent that defendant
21 presents sureties that were available at his detention hearing on
22 December 21, 2022, this Court should not consider them.

23 **V. DEFENDANT IS A DANGER TO THE COMMUNITY AND A FLIGHT RISK**

24 Defendant is a clear and present danger to the community. His
25 history of making terrifying threats of violence, including mass
26 shooting and mass casualty events, combined with his history of
27 stalking and the genuine fear of those who know him well that he may
28 actually follow through on those threats, presents a risk to society

1 that cannot be overstated. Separately, his history of stalking - and
2 his proximity to a prior victim only 4 days after threatening her
3 life - are a reminder that Victim M.S.'s fears for her own life
4 should be taken extremely seriously.

5 **A. Nature and Circumstances of the Offenses**

6 Defendant is charged with a violation of 18 U.S.C.
7 §§ 2261A(2)(B), 2261(b)(5) (Stalking). The nature and circumstances
8 of the offense weighs heavily in favor of detention. Defendant's
9 conduct involves repeated threats of extreme violence, including mass
10 shootings, with defendant repeatedly calling for the murder of Jews
11 and Asians, and promising to "kill a Jew before he leaves this
12 earth." Given defendant's history, described more fully below, his
13 threats must be taken seriously.

14 **B. Weight of the Evidence**

15 The weight of the evidence is extremely strong. Defendant's own
16 words and actions constitute the offense. His words are recorded in
17 social media posts, individual text messages, and emails. Finally,
18 in a Mirandized and recorded statement to law enforcement, defendant
19 admitted the conduct.

20 **C. History and Characteristics of the Defendant**

21 Defendant's history and characteristics are extremely troubling
22 and demonstrate that he is both a danger and a flight risk.

23 **1. Danger**

24 Defendant's statements and actions demonstrate that he likely
25 seeks to inflict violence on others, and at the very least,
26 indisputably seeks to terrorize his victims and make them fear for
27 their lives. Victim M.S., who had previously dated defendant and
28 remained friends with him for years, and who compassionately advised

1 him to seek out mental health treatment after some of his initial
2 threatening statements, genuinely believes him capable of following
3 through on his threats and conducting a mass casualty event or
4 harming her or her family. Defendant's own father, prior to his
5 initial detention hearing, told Pretrial Services that he believed
6 defendant was a threat to the community and that he should be
7 detained. He and his partner told Pretrial Services that defendant
8 had, less than 24 hours prior to his arrest, threatened a mass
9 casualty event, and that they took him seriously. Defendant's
10 father's partner told Pretrial Services that she feared the
11 defendant, and was hesitant to come forward with her concerns as a
12 result, but ultimately believed the Court should be informed that
13 defendant could pose a real danger if released.

14 Defendant also has a history of taking concrete actions to back
15 up his threats. For example, in 2017, only four days after defendant
16 called his former teacher and threatened to kill her, he showed up at
17 the park where she was walking her dog. She called the police,
18 leading to his arrest and conviction for criminal threats with the
19 intent to terrorize. Defendant's threats of perpetrating a mass
20 shooting on a cruise ship also reflected that he had taken
21 substantial steps toward his plan. After stating that he was planning
22 to buy guns in Texas and shoot my way onto a cruise ship, he wrote
23 that he had been "studying layouts and blueprints to find good trap
24 areas."

25 Moreover, defendant's focus on mental health undermines rather
26 than supports his argument for pretrial release. He and his
27 supporters have all acknowledged that he was diagnosed with bipolar
28 disorder over a decade ago, and more recently with borderline

1 personality disorder, and has received mental health treatment over
2 the years, but that has not prevented his terroristic threats from
3 continuing. His former roommate notes that Lackner "lacked
4 emotional and mental health support in his community," (Ex. G to
5 Defendant's Brief), and his own father and father's partner believed
6 he was a danger to the community in need of detention at his prior
7 detention hearing only a few months ago. Accordingly, the fact that
8 he is able to stay on his medications while in detention is a better
9 argument for continued detention than for pretrial release.

10 2. Risk of Nonappearance

11 Finally, defendant's history of erratic, unpredictable behavior
12 demonstrates he is a serious risk of nonappearance. Accordingly, his
13 history and characteristics demonstrate that he is both a danger and
14 flight risk.

15 **D. Nature and Seriousness of the Danger to Any Person or the**
16 **Community that Would Be Posed by the Defendant's Release**

17 The seriousness of the danger defendant poses to himself and
18 others cannot be overstated. Defendant's mass casualty threats are
19 extremely disturbing, and several of the people who know him well
20 informed the government before his prior detention hearing that they
21 take his threats seriously, feared for their safety, and believed
22 defendant should be detained for the safety of the community. There
23 is no reason to believe that defendant's commitment to pursuing
24 mental health treatment upon release will mitigate these concerns,
25 particularly given that he has previously received mental health
26 treatment, including at least one hospitalization for mental illness.

27 At the very least, defendant poses a danger to his current and
28 potential stalking victims. Even if defense counsel is correct that

1 he would never follow through on his threats to perpetrate a mass
2 shooting or mass casualty, defendant has proven himself capable of
3 terrorizing individual victims, making them fear for their lives,
4 seek out restraining orders, and in the case of Victim M.S., causing
5 her to take time off of work because of the emotional distress of
6 living with his threats.

7 **VI. CONCLUSION**

8 For the foregoing reasons, the government respectfully requests
9 that the Court deny defendant's request for release. Should the
10 Court grant defendant's request for release, the government would
11 respectfully request leave to appeal the decision to the District
12 Court.